

IC 20-4-19

Chapter 19. Mergers Within Counties

IC 20-4-19-1

Definitions

Sec. 1. As used in this chapter, the following terms shall have the following meanings:

(a) "Counties" shall mean any county within the state of Indiana.

(b) "School corporation in the county" shall mean all the school corporations in the county, all or a part of whose territory lies therein.

(c) "Governing body" shall mean the board or commission charged by law with the responsibility of administering the affairs of a school corporation, including but not limited to a board of school commissioners, metropolitan board of education, board of school trustees, or board of trustees; and in the case of a school township, it shall be the trustees and township board acting jointly.

(d) "Concurrent resolutions" shall mean substantially identical resolutions adopted by each of the governing bodies of the school corporations in the county.

(e) "Merger" shall mean the merger of all the school corporations in the county into a single school corporation in which all the rights and all the obligations of each school corporation, including but not limited to the right to receive tax and other moneys, are transferred into a new corporation to be known in this chapter as the merged corporation.

(Formerly: Acts 1969, c.249, s.1.) As amended by P.L.8-1987, SEC.43.

IC 20-4-19-2

Merger resolution; contents

Sec. 2. A merger of the school corporations in the county shall be effected in the following manner: Each of the governing bodies of the school corporation shall adopt a concurrent resolution providing for the merger. Each of such resolutions shall be adopted within a period of sixty (60) days from the date the first concurrent resolution is adopted by any governing body. Such resolutions shall provide for the following:

(a) The make-up of board member districts. All board members shall be elected from the entire merged school corporation, but residence requirements may provide that such members live in different districts. The board member districts need not be equal in size or population; one (1) such board member district may include all the area in the merged school corporation. The number of members of the governing body of the merged school corporation to be elected from each board member district need not be equal in number. Such concurrent resolutions may also eliminate all requirements that there be board member districts.

(b) The number of members on the governing body of the merged school corporation shall be three (3), five (5) or seven (7).

(c) The time the merged school corporation shall come into existence.

If, however, no time is provided when the merged school corporation comes into existence or if a final judgment in the remonstrance proceeding is delayed beyond the time set in the concurrent resolutions, the merged school corporation shall come into existence on July 1 following the adoption of such resolutions or such final judgment, whichever last occurs.

(Formerly: Acts 1969, c.249, s.2.)

IC 20-4-19-3

Notice of adoption of concurrent resolutions; effective date of merger

Sec. 3. (a) After the last concurrent resolution is adopted, notice of the adoption of the concurrent resolutions shall be given by setting out the substance of the concurrent resolutions, together with the statement that such resolutions have been adopted and that a right of remonstrance exists as provided in this chapter. It shall not be necessary to set out the remonstrance provisions of the statute, but a general reference to the right of remonstrance with a reference to this chapter shall be sufficient. The notice shall be made two (2) times, a week apart in two (2) daily newspapers, published in the English language and of general circulation in the county. Where there is only one (1) such daily and/or a weekly newspaper, publication in the latter paper shall be sufficient.

(b) The merger shall take effect at the time provided in section 2 of this chapter unless within thirty (30) days after the first publication of such notice, a remonstrance is filed in the circuit or superior court of the county by registered voters equal in number to at least ten percent (10%) of the registered voters of any school corporation in the county.

(Formerly: Acts 1969, c.249, s.3.) As amended by P.L.2-1988, SEC.512.

IC 20-4-19-4

Remonstrances; form

Sec. 4. (a) A remonstrance under section 3 of this chapter will be substantially in the following form:

The undersigned hereby remonstrates against the merger of the school corporations in _____ county.

The remonstrance may be filed in any number of counterparts. Each counterpart shall have attached to it the affidavit of the person circulating it that each signature appearing thereon was affixed in his presence and is the true and lawful signature of the person who made it. The person who makes such affidavit need not be one (1) of the persons who signs the counterpart to which it is attached. Such remonstrance shall be accompanied by a complaint filed by one (1) or more of the remonstrators (who shall be treated as a representative of the entire class of remonstrators), and signed by such remonstrator or his attorney, stating the reasons for the remonstrance. Such

reasons shall be limited to the following:

(1) There is a procedural defect in the manner in which the merger is carried out which is jurisdictional.

(2) The benefits to be derived from the merger are outweighed by its detriments, taking into consideration the respective benefits and detriments of the pupils and inhabitants residing in each of the school corporations of the county.

(b) The plaintiff or plaintiffs in such suit shall be the person or persons whose name appears on the complaint. The defendants in a remonstrance under section 3 of this chapter shall be the school corporations in the county. Service of process shall be made on the defendants as in other civil actions.

(c) For the purposes of determining whether the petition was timely filed, the time of filing shall be the time of filing with the clerk without regard as to the time of issuance of the summons. Where the thirtieth day falls on Sunday, a holiday, or any other day when the clerk's office is not open, the time shall be extended to the next day when such office is open.

(d) The issues in any remonstrance suit shall be made up by the complaint, the allegations thereof being deemed denied by each defendant. No responsive pleading need or may be filed except that any defendant may where appropriate file a motion to dismiss the suit on the ground:

(1) that the requisite number of qualified remonstrators have not signed the petition;

(2) that the remonstrance was not timely filed; or

(3) that the complaint does not state a cause of action.

No responsive pleading to this motion need or may be filed. With respect to a motion under subdivisions (1) and (2), the allegations shall be deemed denied by the remonstrators. For purposes of determining whether there are the requisite number of qualified remonstrators, no person shall be entitled to withdraw his name after a remonstrance has been filed nor shall any person be entitled to add his name to such remonstrance. Any person may, however, at the trial of such cause and in support or derogation of the substantive matters in the complaint, introduce into evidence a verified statement that he wishes his name added to or withdrawn from the remonstrance. The court may either hear all or a part of the matters raised by the motion to dismiss separately or may consolidate for trial all or a part of such matters with the matters relating to the substance of the case. No complaint shall be dismissed for failure to state a cause of action, if a fair reading of the complaint makes out one (1) of the grounds for remonstrance and suit provided in subsection (a). An amendment of the complaint may be permitted in the discretion of the court if it does not state a new ground of remonstrance.

(e) The trial of a remonstrance suit shall be conducted as other civil cases by the court without the intervention of a jury on the issues raised by the complaint and/or motion to dismiss. A change of venue from a judge, but no change of venue from the county, will be

permitted. The court will expedite the hearing of the case. Its judgment shall be either that the merger takes place or that it does not take place or that the remonstrance shall be dismissed.

(Formerly: Acts 1969, c.249, s.4.) As amended by P.L.2-1988, SEC.513.

IC 20-4-19-5

Election of board members of merged school corporations

Sec. 5. (a) The board members of the merged school corporation shall be elected at the first primary election following its creation, and vacancies shall be filled in accordance with IC 20-4-1-26.5.

(b) Until such first election, the board of trustees of the merged school corporation shall consist of the members of the governing body of any school corporation in the county other than a school township and the township trustee of any school township in the county.

(c) The first board of trustees shall select the name of the merged school corporation by a majority vote. Such name may be changed from time to time by unanimous vote of the governing body of the merged school corporation.

(Formerly: Acts 1969, c.249, s.5.) As amended by P.L.2-1988, SEC.514; P.L.3-1989, SEC.112.

IC 20-4-19-6

Powers of merged school corporation

Sec. 6. The merged school corporation shall have all the powers provided in IC 20-4-1-26.1 through IC 20-4-1-26.9.

(Formerly: Acts 1969, c.249, s.6.) As amended by P.L.2-1988, SEC.515; P.L.3-1989, SEC.113.